



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 30, 1998

Mr. Lee Shapleigh
Assistant County Attorney
El Paso County
500 E. San Antonio, Room 203
El Paso, Texas 79901

OR98-1104

Dear Mr. Shapleigh:

You ask whether certain information is subject to required public disclosure under the Open Records Act ("act"), chapter 552 of the Government Code. Your request was assigned ID# 114958.

The El Paso County Auditor (the "Auditor") received a request for the itemized amounts by appointed attorney who received money from four specified courts. The attorney payments are for the rendition of legal services approved by the court. You ask whether the requested information is subject to the act. You have submitted a copy of the requested information for our review as Exhibits A through C.

You indicate that the information responsive to the request exists in two forms. The first is on the paper record entitled "Order Appointing Attorney and Approval for Payment." You explain that this form contains basic information about the case and the attorney's activities. You have marked these forms as Exhibits A and B. The form is completed and signed by the attorney and the court. It appears that the court forwards the form to the Auditor. The Auditor then uses the form to enter "information into the county's billpaying/check generating computer database maintained by the auditor." The database "system produces a report that appears on the commissioners' court agenda for the payment of all the county's bills." You state that "[t]he paper document, Exhibit B, is part of the commissioners court business records as 'back-up' in the event a commissioner needs more detail in deciding whether the list of proposed payments should be paid." You state that there is no field in this database for the appointing court; therefore, the Auditor is incapable of producing the requested information from the database. The requested information is available only from the court order form itself.

The second source where responsive information exists is within a second computer database maintained by the Auditor. You have submitted a report from this database as Exhibit C. You state that this database "was created by the county auditor solely at the request of several judges" and uses the information from the "Order Appointing Attorney and Approval for Payment" form to create the database. You explain that "this database has been used to prepare reports only for the judiciary and only upon specific request by a judge or judges. No routine or periodic reports are generated by the auditor from this system."

Information in the possession of "a governmental body" is generally available to the public. Gov't Code § 552.021. The act defines "governmental body" as, among other things, an "agency or office that is within or is created by the executive or legislative branch of state government and that is directed by one or more elected or appointed members." The County Auditor is a governmental body under the act. Gov't Code § 552.003(1)(ii), (x). However, the act's definition of "governmental body" states that the term governmental body does not include the judiciary. *Id.* § 552.003(1)(B). Because the requested information was submitted to the Auditor by various courts of the county, you question whether the payment information on the provided forms or within the databases is an Auditor record, or a record of the judiciary.

The act defines public information as information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body, or for a governmental body and the governmental body owns the information or has a right of access to it. *Id.* § 552.002. It appears in this case that the appointed attorneys and the courts are required to submit the information at issue in order to pay the appointed attorneys for the rendition of legal services. You explain that the Auditor inputs the requested information into two databases from a form created by the court. You also attest that the Auditor collects and maintains the information in Exhibits A through C in order to make commissioners' court approved payments to the court-appointed attorneys and to generate the attorneys' checks. It is apparent that the Auditor collects and maintains the requested information in connection with its official duties and functions as a county agency. Thus, the requested payment listings, either generated by the Auditor's databases or from the submitted forms, are records of the Auditor. *See* Open Records Letter Nos. 97-2756 (1997), 97-2253 (1997). Consequently, we believe that the responsive information in Exhibits B and C is subject to disclosure under the act.

You raise no other exception to the required public disclosure of the information. We conclude that the Auditor must release the requested information to the requestor. To comply with the particular request here, however, the Auditor need only release Exhibit C, the report generated by the Auditor's second separate database.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue

under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref.: ID# 114958

Enclosures: Submitted documents

cc: Mr. Arne Schonberger
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(w/o enclosures)